

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARIA BUTTERCASE,

Plaintiff,

vs.

STATE OF NEBRASKA,

Defendant.

8:24CV283

MEMORANDUM AND ORDER

This matter is before the Court on a memorandum from the Clerk of the Court requesting a ruling as to Plaintiff's authorization to proceed in forma pauperis on appeal, Filing No. 13, and Plaintiff's Motion for Appointment of Appellate Counsel, Filing No. 12. Plaintiff filed a Notice of Appeal, Filing No. 11, on March 19, 2025. Plaintiff appeals from the Court's Memorandum and Order and Judgment dated February 20, 2025, Filing Nos. 9 & 10, in which the Court denied Plaintiff's request for removal of her state court civil action and remanded the matter to the District Court of Otoe County, Nebraska.

As set forth in Federal Rule of Appellate Procedure 24(a)(3):

(a) Leave to Proceed In Forma Pauperis . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding

The Court finds that because Plaintiff proceeded IFP in the district court, she may now proceed on appeal in forma pauperis without further authorization.

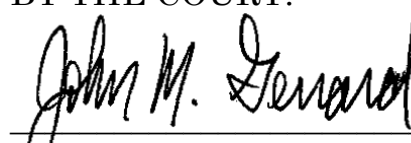
Regarding Plaintiff's request for appellate counsel, "[t]here is no constitutional or statutory right to appointed counsel in civil cases." *Phillips v. Jasper Cnty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006). A district court "may request an attorney to represent" an indigent civil litigant, 28 U.S.C. § 1915(e)(1), but it has a "good deal of discretion" in deciding whether to do so, *Chambers v. Pennycook*, 641 F.3d 898, 909 (8th Cir. 2011). The Court has carefully considered the record and finds the appointment of counsel is not warranted. The Court, therefore, will deny Plaintiff's motion for the appointment of counsel, but such denial is without prejudice to Plaintiff's reassertion of her motion before the Eighth Circuit Court of Appeals. Because Plaintiff seeks counsel on appeal, she should address her request for counsel to the Eighth Circuit Court of Appeals.

IT IS THEREFORE ORDERED that

1. Plaintiff may proceed on appeal in forma pauperis.
2. Plaintiff's Motion for Appointment of Appellate Counsel, Filing No. 12, is denied without prejudice to reassertion before the Eighth Circuit Court of Appeals.

Dated this 21st day of March, 2025.

BY THE COURT:



John M. Gerrard
Senior United States District Judge